

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6239

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID MCDOWELL ROBINSON,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Richard D. Bennett, District Judge. (1:07-cr-00087-RDB-1; 1:13-cv-00300-RDB)

Submitted: May 29, 2014

Decided: June 4, 2014

Before SHEDD, WYNN, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

David McDowell Robinson, Appellant Pro Se. Jefferson McClure Gray, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David McDowell Robinson seeks to appeal the district court's order denying his Fed. R. Civ. P. 60(b)(4) motion and, in the alternative, construing it as a motion under 28 U.S.C. § 2255 (2012) and dismissing it as untimely. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2012). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2012). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the motion states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85.

We have independently reviewed the record and conclude that Robinson has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED